CONGRESSIONAL BUDGET OFFICE
ESTIMATE OF COSTS
OF PRIVATE-SECTOR MANDATES

September 12, 1997

H.R. 10
Financial Services Competition Act of 1997

As reported by the House Committee on Banking and Financial Services on July 3, 1997

SUMMARY

Overall, H.R. 10 would reduce existing federal regulation of the financial services industry by relaxing restrictions on business and financial transactions throughout the economy. In particular, the bill would eliminate certain barriers to ties among banking organizations, other financial firms and commercial businesses. At the same time the bill would impose restrictions on newly authorized financial and commercial activities.

H.R. 10 would impose several new private-sector mandates as defined by the Unfunded Mandates Reform Act of 1995 (UMRA). The mandates identified in the bill would affect banking firms and other organizations that engage in financial activities. CBO estimates that the direct costs of those mandates would exceed the statutory threshold for private-sector mandates ($100 million in 1996 dollars, adjusted annually for inflation) in 2003 because of requirements imposed on the Federal Home Loan Banks. Federally-chartered thrifts would probably experience some modest costs as a result being forced to change charters within two years after enactment. The direct costs of mandates on banking organizations could be at least partially offset by savings from changes the bill would make to expand the powers of banks and bank holding companies.

PRIVATE-SECTOR MANDATES CONTAINED IN BILL

H.R. 10 would impose new mandates on Federal Home Loan Banks (FHLBs), federal savings associations, and banking organizations. The largest costs are associated with mandates that would be imposed on the FHLB system. The primary mandates on FHLBs in the bill would require them to:

- replace the $300 million fixed annual payment for interest on Resolution Funding Corporation (REFCORP) bonds with a 20.75 percent annual assessment on net earnings; and

- reduce the level of investments to the amount necessary for liquidity, safety and soundness, and housing finance.

The bill would also impose new mandates on federally-chartered thrifts (savings associations) and banking organizations. If enacted, major provisions in H.R. 10 would:

- force all federally-chartered thrifts to convert to another charter within two years after enactment;

- require banking organizations to adopt several consumer protection measures affecting sales of non-deposit products;

- end the blanket exemption under the Securities Exchange Act of 1934 for brokers and dealers that conduct business in banks, making them subject to regulation by the Securities and Exchange Commission (SEC);

- end the exemption under the Investment Advisers Act of 1940 for bank investment advisers, making them subject to SEC examination and registration requirements; and

- end the authority of federally-charted banks (national banks) to sell title insurance directly in the bank.

Savings made possible by the bill could offset at least some of the costs of mandates in the bill. In particular, provisions that expand the allowable activities for banking organizations may lead to additional net income for these institutions as compared to current law.

ESTIMATED DIRECT COST TO THE PRIVATE SECTOR

The direct costs of private-sector mandates identified in this bill would exceed the threshold established in UMRA. Although mandates would become effective at different dates, CBO estimates that the aggregate costs of mandates would exceed the statutory threshold primarily due to mandates imposed on FHLBs. Under H.R. 10, CBO estimates that FHLBs would experience a reduction in net earnings as compared to projected net earnings under current law. In 2003, the fifth year after mandates on FHLBs would become effective, the estimated loss in net earnings (direct costs) to FHLBs would rise to $158 million. This amount exceeds the statutory threshold ($100 million in 1996, adjusted annually for inflation) by about $35 million dollars.

The direct costs of other mandates in the bill would not likely be significant. CBO estimates that the direct costs to federally-chartered thrifts of converting to another charter would amount to about $14 million by the second year of enactment with zero costs thereafter. The direct costs of mandates on banking organizations for which we were able to obtain data would amount to less than $11 million initially falling precipitously thereafter. Although data were not available for every mandate identified in the bill, the additional costs of these mandates are not expected to be significant.

The bill would also affect businesses and consumers in many ways other than through the mandates it contains. Estimates are more certain for the direct costs of mandates that are closely linked to legislative language. Greater uncertainty exists, for the cost of mandates that are highly dependent on federal rulemaking. Moreover, there are many uncertainties concerning how firms might react to changes in financial and commercial markets as a result of provisions in this bill. The estimates provided below are of the direct costs (and potential savings) of mandates, and not the more general effects on the private sector. Where possible, a discussion of the broader effects is included.

Federal Home Loan Bank Reform

H.R. 10 contains a number of provisions regarding the Federal Home Loan Bank (FHLB) system. The 12 Federal Home Loan Banks are private, member-owned institutions regulated by the Federal Housing Finance Board (FHFB). The FHLB system has more than 6,100 member institutions, including federal- and state- chartered thrift institutions, commercial banks, credit unions, and insurance companies. The FHLBs provide members with loans (advances) at attractive rates, and make investments in mortgage-backed securities and other financial assets. Members are required to purchase stock in the FHLBs; and the FLHBs pay dividends on that stock. Federal Home Loan Banks finance most of their assets through the sale of collateralized obligations. Because the FHLB system was created and chartered by

the federal government, it is considered a government-sponsored enterprise, and its obligations are perceived to carry an implied federal guarantee. The implied guarantee enables the FHLBs to borrow funds from financial markets at low rates.

Many provisions of the bill would affect the administration of the Federal Home Loan Bank system. Section 177 of H.R. 10 would require each FHLB to submit for FHFB approval a capital structure plan and would authorize the FHFB to establish leverage and risk-based capital requirements for FHLBs. The bill would require two classes of FHLB stock with different voting and dividend features redeemable in either one or five years. Most banks surveyed by CBO are uncertain about how a new capital structure plan would affect operations, and hence, compliance costs.

Section 172A would require the Office of Finance, now a part of the FHFB, to become a part of the FHLB system. The Office of Finance issues consolidated obligations that are sold through investment firms and dealer banks or as direct placements. Banks are currently assessed a fee to cover the administrative costs of the Office of Finance; therefore, compliance costs are not expected to increase with this change. Section 172B of H.R. 10 would require 15 directors for each bank--9 elected and 6 appointed. Most banks currently have 15 or more directors; about 3 banks would have to hire an additional director. The cost of an additional director would vary by bank; fees plus expenses for a director usually range from $22,000 to $28,000.

Section 176 would replace the fixed annual payment made by FHLBs for the interest on Resolution Funding Corporation (REFCORP) bonds with a 20.75 percent assessment on the net earnings of each FHLB. The bill would also allow an additional assessment allocated equally among FHLBs if necessary to meet the minimum REFCORP payment. FHLBs would no longer have to pay a fixed amount regardless of annual earnings; under H.R.10 they would pay a fixed percentage of adjusted net earnings. CBO estimates that the new assessment rate would increase the payments made by FHLBs above the current payment of $300 million annually by a total of $45 million over the 1998-2003 period.

Section 178 would mandate that the FHLBs reduce the level of their investments to the amount necessary for liquidity purposes, or for safe and sound operation, or for housing finance. Depending on how regulators interpret this mandate, the earnings on investments could be lower as compared to those earned by FHLBs under current law. CBO assumes that the relevant provisions in this section would go into effect on January 1, 1999, and that the FHLBs would gradually reduce their holdings of mortgage-backed securities from 300 percent of capital in 1998 to 50 percent of capital by 2003. Money market and other financial investments were assumed to decline from 475 percent of total capital in 1998 to 150 percent by the year 2000. Those adjustments would bring the FHLBs' investment portfolio close to

the norm that was established before passage of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Other provisions of the bill are likely to affect membership in the FHLB system and thereby could affect the earnings of FHLBs. Section 172 would repeal the federal mandate that requires federal savings associations to be members of the system effective January 1, 1999. (Most experts do not anticipate a large exodus of thrift institutions.) In addition, this section would allow community financial institutions (defined as insured depository institutions with less than $500 million in total assets) to be members in the Federal Home Loan Bank system by exempting them from the eligibility requirement that at least 10 percent of their total assets be in residential mortgage loans. This section of the bill would also allow community financial institutions that are members of the Federal Home Loan Bank system to get long-term advances for the purpose of funding small business, agriculture or rural development.

Allowing for the projected changes in investments and accounting for the effects of additional earnings from new members and the expanded possibility of earnings from advances, CBO estimates that net earnings to FHLBs (after payments for REFCORP and the Affordable Housing Program) would be lower than net earnings projected under current law. The loss in net income would be counted as a direct cost of these mandates. The estimated cost to FHLBs, as measured by the loss in net income, increases from about $30 million in 1999 to about $122 million in 2002. By 2003, the fifth year after these provisions would become effective, the loss in net income totals $158 million and would exceed the threshold for private-sector mandates under UMRA. Nonetheless, the returns to FHLB shareholders would remain above competitive levels, although by less than they would have been otherwise. CBO estimates that FHLBs' net earnings would peak in 1998 at $1.3 billion, gradually drop to $1.149 billion by 2002 and begin to rise again thereafter.

Elimination of the Federal Thrift Charter

Two years after enactment, Title III of the bill would require federal savings associations to automatically be converted by operation of law to national banks. The direct costs of this private-sector mandate are uncertain, but would not likely be significant. Moreover, the costs of regulating the newly converted banks would most likely be lower than under current law. If so, those savings would be passed on to regulated institutions.

The direct costs of conversion could include such items as conversion fees to a new chartering agency, the costs of replacing signs and stationery, the cost of a pre-conversion examination, and legal costs associated with adopting and conforming with the new charter. CBO assumes that the chartering agency would not charge federal savings associations a conversion fee and that the converting federal savings associations would not incur the legal

costs associated with filing for conversion or the costs of a pre-conversion examination. Therefore, the direct costs of converting to a national bank would be the costs of replacing signs and stationery. Given that federal thrifts would have two years for this transition, new stationery would not necessarily be an additional cost. The cost to replace signs, assuming a cost of about $2000 per branch, would amount to about $14 million.

Regulation of Non-Deposit Products

Section 112 of the bill would direct the federal banking agencies to adopt joint consumer protection regulations regarding bank retail sales of non-deposit products. Regulations would apply to retail sales, solicitations, advertising or offers of non-deposit products by any insured depository institution or any person engaged in such activities at an office of the institution or on behalf of the institution. The bill defines non-deposit products as investment and insurance products that are not deposit products as well as shares of registered investment companies. The major areas that must be addressed by regulation include:

- suitability standards--standards to ensure that an investment product sold to a consumer is suitable and any other non-deposit product is appropriate for a consumer based on financial information disclosed by the consumer;

- anti-coercion--a prohibition against engaging in any practices that would lead a consumer to believe than an extension of credit is conditional on the purchase of a non-deposit product from the institution or a subsidiary or affiliate;

- consumer disclosures--oral and written disclosures regarding the uninsured status of the product, the absence of a bank guarantee, possible changes in value, and the prohibition on coercion in connection with a loan, and consumer acknowledgment of the receipt of such disclosures;

- physical segregation of activities--a requirement that retail deposits and transactions involving non-deposit products be conducted in separate settings, when possible; and

- sales personnel--a prohibition against the selling or offering of an opinion or investment advice on any non-deposit product by persons who are engaged in deposit taking functions; and standards allowing for such persons to make referrals to qualified persons only if the person making the referral receives no more than a one-time nominal fee for each referral that does not depend on whether the referral results in a transaction. Requirements regarding the qualifications of persons authorized to sell non-deposit products on behalf of an insured depository institution.

Currently, banks may engage in the retail sale of non-deposit products with some restrictions. National banks are allowed to engage in brokering (buying and selling) of all types of securities and investment products. State banks' securities activities vary from state to state, but most states permit state banks to engage in the sale of securities--currently, 43 states authorize discount or full securities brokerage, and 17 states allow banks to underwrite securities. Regarding insurance activities, permissible methods of entry for a bank generally depend on insurance powers granted under federal and state banking laws and state licensing requirements. A national bank may sell all lines of insurance as an agent, either directly or through a subsidiary, as long as it operates the insurance agency in towns with a population of 5,000 or less. Most states have laws that permit state bank sales of insurance either explicitly or implicitly through the operation of a "wild card" statute (permitting state banks to exercise the same powers as national banks).

Except for the anti-coercion provision, the provisions in section 112 are based on current industry guidelines issued in 1994 by bank regulators in an Interagency Statement on Retail Sales of Non-deposit Investment Products. The anti-coercion provision is similar to the anti-tying provision in current law. The consumer protection mandates would, depending on how regulators interpret these provisions, codify current industry guidelines and, therefore, would not likely impose measurable incremental costs on banks that currently engage in non-deposit activities.

Additional Regulator--National Council on Financial Services

The bill would establish a new National Council on Financial Services to coordinate the regulation of financial services. The Council would include representatives from the Treasury Department (chair), the Federal Reserve Board (vice chair), the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission, two state insurance regulators, a state securities regulator and a state banking regulator.

The bill would give the National Council on Financial Services the authority to prescribe additional, more stringent, consumer-related regulations if two years after the rules have been promulgated, the council decides that the regulations of the federal agencies are not sufficient to protect consumers. H.R. 10 also grants the council the authority to establish the regulatory framework that governs transactions and relationships between banks and their affiliates and subsidiaries. Because CBO has no basis for predicting the council's actions, we cannot estimate the costs of such potential incremental regulations on banks.

Powers of National Banks

Although H.R. 10 would allow insurance agency and underwriting activities to be conducted by a bank affiliate under a bank holding company framework or by an insurance agency in a subsidiary of a bank, the bill would not expand insurance activities in the national bank itself. Instead, section 151 of the bill restates current law that prohibits insurance underwriting in a national bank and further provides that products being regulated by a state as insurance as of January 1, 1997, would be considered as insurance for purposes of the ban on insurance underwriting. That is, the bill would generally prohibit national banks from underwriting insurance except if they had OCC authorization to provide insurance as a principal as of January 1, 1997, or were already providing insurance as of that date. In determining if a new product after this date is insurance, a new administrative decision-making process would be created utilizing the National Council on Financial Services. A state insurance supervisory agency may petition the council to challenge an OCC determination regarding whether a new product (one not authorized or provided as of January 1, 1997) is an insurance product or a banking product. National banks would still be required to base insurance sales operations in towns with fewer than 5,000 people. CBO has no basis for predicting how regulators would define insurance products and therefore, we cannot estimate the costs of future restrictions on insurance activities.

Section 155 of the bill would end the current authority of national banks and their subsidiaries to sell title insurance as agent or principal. The direct costs of this prohibition, however, would be zero for existing institutions that sell title insurance because H.R. 10 would grandfather such institutions.

H.R. 10 would grant national bank organizations the authority to engage in new activities that would provide national banks with a potential new source of income. In particular, section 141 would authorize subsidiaries of national banks (with OCC approval) to engage in "financial activities" not allowed in the bank itself, except for merchant banking, insurance underwriting and real estate development. To engage in activities through a financial subsidiary, the national bank and all of its depository institution affiliates must be well capitalized, be well-managed and have at least a satisfactory rating under the Community Reinvestment Act (CRA). Examples of new activities for national bank subsidiaries include securities underwriting, and insurance agency activities not restricted to small towns. In addition, section 151 of the bill would authorize national banks to underwrite municipal revenue bonds directly in the bank.

Regulation of Securities Services and Investment Advisers

Title II of H.R. 10 would amend the securities laws in order to provide functional regulation

of existing and newly authorized bank securities activities. Under the bill, bank affiliates and subsidiaries would continue to be subject to the same regulation as other providers of securities products. However, banks engaging directly in securities activities, with certain exceptions (primarily related to traditional banking activities), would be required to register with the Securities and Exchange Commission. Also under the bill, bank employees involved in the sale of securities would be required to meet securities industry standards. Moreover, under H.R. 10, if a bank acts as an investment adviser to a registered investment company, the bank would be subject to the registration requirements and regulation under the Investment Adviser Act of 1940.

Securities Services. The Glass-Steagall Act generally prohibits banks from underwriting and dealing in securities, except for "bank-eligible" securities. Eligible securities are limited to those offered and backed by the federal government and federally-sponsored agencies, and certain state and local government securities. As banks have sought to expand their product lines, federal regulators have provided banks, through affiliated firms, limited authority to underwrite and deal in other types of securities. Generally, a firm that provides securities brokerage services (known as a broker-dealer) must register with and be regulated by the Securities and Exchange Commission and at least one self-regulatory organization such as the National Association of Securities Dealers (NASD), the New York Stock Exchange, and the American Stock Exchange. Banks, however, are currently exempted from broker-dealer regulation.

H.R. 10 would end the current blanket exemption for banks from being treated as brokers or dealers under the Securities Exchange Act of 1934. Bank securities activities would, therefore, be subject to SEC regulation, with some exceptions. Sections 201 and 202 of the bill would exempt most traditional bank securities activities from registration and regulation as a broker-dealer under SEC regulation. The exemptions would cover many products that banks currently offer as agent so that these products would not trigger broker-dealer regulation. For example, private placements, trust activities, and U.S. government securities transactions would be exempt. Section 201 would also provide an exemption for broker-dealers that handle fewer than 1,000 securities transactions in a year. Moreover, the bill would not apply full broker-dealer regulation to those banks that would be required to register. Banks that register as brokers or dealers would not be required to become a member of the Securities Investor Protection Corporation (SIPC). Well-capitalized banks that register as brokers or dealers generally would not be subject to SEC net capital requirements.

According to the General Accounting Office, about 22 percent of banks offered securities brokerage services to their customers in 1994. The SEC and the National Association of Securities Dealers (NASD) regulated the securities activities of almost 90 percent of these 2,400 banks because they provided these services through registered broker-dealers or

through third-party arrangements with registered broker-dealers. However, about 300 banks provided brokerage services on bank premises exclusively through bank employees. Those bank-direct brokerage operations were subject to regulation by federal bank regulators and were exempted from regulation by the SEC and NASD. Under H.R. 10, those 300 banks would potentially be subject to federal securities regulation. Many of these banks would probably be exempt, however, because they would not likely handle more than 1,000 transactions. Compliance costs of this mandate are, therefore, not likely to be large.

Banks affected by this mandate would have to register with the SEC and register with securities commissions in those states where they plan to do business. To register, a firm must provide the SEC with extensive amounts of information, including a list of its principals (individuals authorized to make transactions on behalf of a firm, such as investing or underwriting), a description of its planned business, any disciplinary history, criminal convictions, and a statement of financial condition. The information that must be supplied to the state is similar to that required by the SEC. The SEC has no registration fee; registration and required examination fees could vary from $100 to $600 by state depending on state requirements. As an upper bound estimate CBO assumed that all 300 banks would register in every state. Compliance costs for registration and examination would be less than $9 million dollars.

Currently, any securities broker-dealer that wishes to do business with the public must become a member of the NASD and be subject to NASD regulation, examination and supervision. Under H.R. 10, banks that wish to continue brokerage services would also be required to become members of the NASD (and perhaps another self-regulating organization in order to get a seat on an exchange). NASD membership requirements for banks could include registering and certifying at least two principals, one of whom is designated as its financial and operating officer; written supervisory procedures to enable proper oversight of employee activities; business insurance (banks are typically bonded); a registered municipal principal for municipal business; a registered options principal for options activity; and a designated NASD executive representative who is the member's primary contact with the NASD. The cost of membership with the NASD depends on the level and types of securities services a firm decides to offer. Membership costs could range from $2,500 to $6,000 or more. In addition to the initial registration fees, banks would have to spend about $400 annually on continuing education requirements for each registered person. The additional costs to banks to register with NASD would be less than $2 million, assuming all 300 banks register.

New certification standards. Section 203 of the bill would require all bank employees involved in the sale of securities to be subject to the same rules applicable to employees of securities and other nonbank firms. Currently, over 90 percent of employees of banks that

engage in securities transactions are already registered with the NASD and hence, comply with industry standards. Because CBO has no basis for predicting how these provisions would be implemented, we cannot estimate the costs of such potential incremental regulations on banks. However, most industry experts surveyed by CBO expect the cost of complying with this mandate for the remaining portion of the industry would be relatively small.

Investment Advisers. Investment advisers are responsible for managing an investment portfolio in order to attain the greatest return consistent with the investment strategy established by the fund board of directors. The Investment Advisers Act requires that investment advisers register with the SEC; however, under current law banks acting as investment advisers to mutual funds are exempt from this requirement. Under this bill those companies would be required to register with the SEC as investment advisers and be subject to SEC regulation of this activity.

The Federal Reserve Board first authorized bank holding companies to act as investment advisers for mutual funds in 1972. Since that time banks have advised an increasing number of funds. Bank revenues from investment advisory activities were over $900 million in 1994. In 1996, banks advised almost 3,000 mutual funds, representing about 30 percent of all funds registered with the Securities and Exchange Commission.

Currently, about 120 large bank holding companies engage in investment adviser activities. Before enactment of The National Securities Markets Improvement Act of 1996, the SEC charged a $150 registration fee. Because of the 1996 act, the SEC is in the process of formulating a fee that will be based on the expected cost of administering the registration program, and the expected number of registrants. Banking organizations that continue to be investment advisers would have to pay this new registration fee annually and maintain books and records according to SEC rules. Inasmuch as the SEC is still in the very early stages of designing a system for registration, CBO has no basis to estimate the incremental costs of registering with the SEC. The costs, however, are not expected to be prohibitively large.

Regulation of Bank Holding Companies

Section 133 of the bill would give statutory guidance to the Federal Reserve Board (FRB) regarding establishment of new capital rules or guidelines for bank holding companies. For example, the bill directs the FRB to take full account of the capital requirements imposed on non-depository institution subsidiaries by other federal or state regulatory authorities and of industry norms for capitalization of a company's unregulated subsidiaries and activities. The FRB would also be allowed to differentiate between different classes or categories of bank holding companies. Because it is uncertain how new capital rules would be implemented

and, therefore, how they would affect operations, CBO has no basis for estimating compliance costs.

OTHER PRIVATE-SECTOR EFFECTS

H.R. 10 would dramatically overhaul federal regulation of the financial services industry. Provisions in this bill could potentially affect business and financial transactions throughout the U.S. economy. Major provisions of the bill would:

- repeal key provisions of the Glass-Steagall Act, thereby allowing for the full integration of banking and securities firms;
- broadly expand the range of financial related activities that would be permissible for banking holding companies, including insurance underwriting;
- permit affiliations between bank holding companies and nonfinancial companies; and
- allow nonfinancial companies to acquire a bank, subject to certain asset size and revenue limitations.

Qualified Bank Holding Companies

At the end of 1996, the number of bank holding companies totaled about 6,000. These organizations controlled over 7,000 insured commercial banks and held over 90 percent of the assents of all insured commercial banks. H.R. 10 would permit qualified bank holding companies (QBHCs), subject to certain safeguards, to engage in any financial activity. These activities would include a broad list of activities (including underwriting, dealing in, or making a market in securities and acting as a principal, agent or broker in connection with insurance or annuities) as well as any activity determined to be a financial activity by a newly established National Council on Financial Services. To be eligible to engage in new financial activities as a QBHC, all banks within a holding company must be well capitalized, well-managed and have at least a satisfactory rating under the Community Reinvestment Act. In addition, to be eligible banks must offer low-cost "life-line" checking accounts and they must be in compliance with the Fair Housing Act. QBHCs would be permitted to engage in any permissible activities without prior notice to the FRB. QBHC acquisitions of banks and bank holding companies would remain subject to FRB approval.

In addition to allowing banks, securities firms, and insurance firms to own each other, the bill would allow qualified bank holding companies to earn up to 15 percent of domestic gross

revenues from investments in nonfinancial businesses such as manufacturing and retail sales. A QBHC's commercial activities within this 15 percent "basket" would be limited in that a QBHC could not become affiliated with any company which had consolidated assets at the time such affiliation occurs of more than $750 million.

Acquisitions of Banks by Commercial Firms

Section 106 of H.R. 10 would allow a commercial firm to acquire a single bank under certain conditions. A nonfinancial commercial firm would be permitted to derive up to 15 percent of domestic revenues from an investment in a bank that has assets of less than $500 million. The bank must have been in business for at least five years at the time the bank is acquired, and must be held through an entity that is a QBHC. Any financial activities engaged in by such a commercial firm must be conducted through a subsidiary that the QBHC controls. A commercial firm that acquires a bank under this provision would not itself be treated as a bank holding company. The Federal Reserve would supervise nonfinancial holding companies that buy banks but only to the extent that activities may pose a potential risk to the federal safety net. Insurance companies in violation of the Fair Housing Act would not be permitted to affiliate with a bank.

Nonbank Banks

The bill would lift current restrictions on cross-marketing and activities imposed on so-called nonbank banks. Nonbank banks are banks that before 1987 did not both accept demand deposits and make commercial loans. In 1987, Congress enacted the Competitive Equality Banking Act, which made such limited purpose banks subject to the Bank Holding Company Act in the future. However, existing limited purpose banks were grandfathered subject to certain restrictions, including a restriction that they could not engage in activities or lines of business that they were not engaged in as of March 5, 1987, and a restriction on the cross marketing of certain products. H.R.10 would lift these restrictions.

Wholesale Financial Institutions

A commercial bank or securities company could establish or become an Investment Bank Holding Company to acquire or establish a Wholesale Financial Institution ("woofie") which could not accept deposits that are insured or in initial amounts less than $100,000. Woofies would have to comply with bank holding company restrictions and the Community Reinvestment Act. A holding company that owned a woofie but no federal insured depository institutions would be allowed greater flexibility (a larger basket) for non-financial investment.

Mutual Insurance Companies

The bill would permit mutual insurance companies to affiliate with banks if they move their home office to a state that allows mutual insurance companies to convert to a stock-owned company held by a mutual holding company.

National Associations of Registered Agents and Brokers

Title IV of the bill would require a majority of states (within three years of enactment of H.R. 10) to enact uniform laws and regulations governing the licensure of individuals and entities authorized to sell insurance within the state. If a majority of states do not enact such laws, section 402 of Title IV would establish the National Association of Registered Agents and Brokers (NARAB). The purpose of NARAB would be to provide a mechanism through which uniform licensing, continuing education, and other insurance producer qualifications could be adopted on a multi-state basis. If NARAB is established, states would maintain the core functions of insurance regulation such as licensing, supervising, and disciplining insurance producers and protecting insurance consumers from unfair trade practices, but certain state laws would be preempted. Specifically, Title IV would prevent states from discriminating against members of NARAB by charging different licensing fees based on residency and requiring compliance with countersignature laws.

Membership in NARAB would be voluntary and all state-licensed agents and brokers would be eligible, but NARAB would have the ability to establish its own membership criteria. Section 405 would give NARAB the authority to establish separate classes of membership, with separate criteria based on education, training, or experience required by different agent and broker duties. Membership in NARAB would operate as licensure in each state in which the member pays the state licensing fee. NARAB would be funded solely through annual membership fees paid by agents and brokers who opt to become NARAB members.

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